

USSN: 09/893,223

Attorney Docket No.: 117-P-1062USD1

**Remarks**

As requested by the Examiner, previously-added language referring to a floor tile 11a and a tile core 78 has been removed from page 39, line 14.

As also requested by the Examiner, claim 45 no longer refers to a floor "traffic" surface or to an "underlying" core. The word "microscopic" in claim 45 has been replaced with the word "small" to employ the language at, e.g. page 39, lines 13 – 14. The recited floor surface is said to have "an elemental composition substantially the same as that of the core of a new, untreated tile" to employ the language at, e.g., page 49, lines 16 – 18, page 51, lines 7 – 10 and in original claim 43. Corresponding editorial amendments have been made in dependent claims 39 – 42, 46 and 47.

As also requested by the Examiner, Fig. 6 has been amended. Presently-amended Fig. 6 differs from original Fig. 6 only insofar as two drawing elements originally bearing numeric identifiers 69 and 70 have now been changed to identifiers 75 and 77. Identifiers 69 and 70 were used elsewhere in the written description (see e.g., page 23, line 10 and page 33, line 5).

Applicants are submitting the present amendment to facilitate prosecution and place the application in condition for allowance, or to place the application in better condition for an appeal if need be. Entry of this amendment and reconsideration of the Final Rejection are requested.

**Specification Objection Under 35 USC §112**

The objection to the written description amendments filed November 3, 2003 and March 15, 2004 should now be moot for the reasons noted above.

**Claim Objections/Claim Rejections Under 35 USC §112**

The objection to the claim amendments filed November 3, 2003 and March 15, 2004 and the rejection of claims 45 – 47 and 38 – 42 should now be moot for the reasons noted above. No other rejections were imposed against claims 46 and 47 and thus at least these claims should be allowable.

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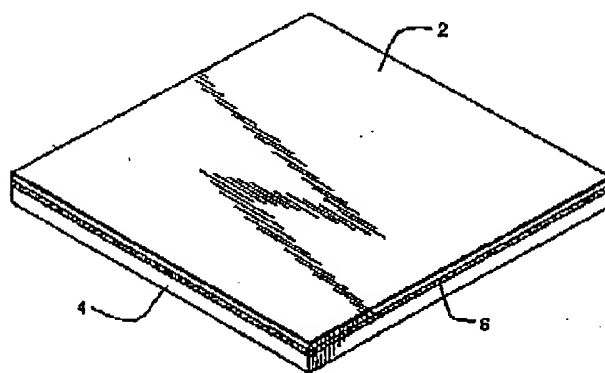
**Drawing Objection**

The objection to the Fig. 6 amendments should now be moot for the reasons noted above.

**35 USC §103 Rejection**

Claims 38 – 42 and 45 remain rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,314,554 (Owens). Applicants request reconsideration.

Applicants have removed the objected-to word “comprising” from claim 45. Claim 45 now recites a tile floor whose tiles “have a floor surface” with certain characteristics. Owens’ tiles do not have a floor surface with the recited combination of characteristics, and would not suggest the tile floor of applicants’ claims 38 – 42 and 45. Owens’ tiles are formed from a thin layer of natural stone 2 and a thick “ceramic subsurfacing unit” 4 joined together with a bonding material 6 (see e.g., col. 6, lines 4 – 6 and 51 – 65 and Fig. 2):

**FIG. 2**

The Final Rejection appears to equate the phrases “flooring surface” and “upper region”. These phrases are not interchangeable. The Final Rejection may depend on such interchangeability when it asserts that Owens’ “quarry layer (4) inherently has a floor traffic surface and this surface is of the same material as Applicant, e.g. quarry, and therefore functions in the same manner”. In Owens’ own words, substrate 4 is a “subsurface” unit. It does not provide a floor surface. The upper surface of substrate 4 is covered with bonding

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material 6 and stone layer 2 (see e.g., col. 7, line 66 through col. 8, line 4). Owens clearly does not intend or suggest that substrate 4 should provide a floor surface.

The Final Rejection also asserts that "All the properties that Applicant claims e.g. microscopic peaks and valleys and slip-resistancy are all inherent to the composition of quarry". However, all words in a claim must be considered when judging patentability, see MPEP §2143.03. If Owens' tiles were used on a floor, the tiles would have a stone floor surface and a ceramic core having inherently different elemental compositions. Owens' floor surface elemental composition would thus not be "substantially the same as that of the core of a new, untreated tile" as recited in claim 45.

Owens does not disclose or suggest the tile floor of claims 38 – 42 or 45. Applicants accordingly request withdrawal of the 35 USC §103(a) rejection of claims 38 – 42 and 45 over Owens.

#### **Conclusion**

The new matter rejections have been rendered moot. No other rejections have been raised against claims 46 or 47. Owens does not disclose or suggest a tile floor whose tiles have a floor surface that is slip-resistant, has small peaks and valleys, and has an elemental composition substantially the same as that of the core of a new, untreated tile. Applicants thus request withdrawal of the Final Rejection and passage of their application to the Issue Branch.

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